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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-------------------|
| 10/761,001 | 01/20/2004 | Mark E. Patton | BW-DKT03097 | 1633 |
| 32175 | 7590 | 06/13/2005 | | EXAMINER |
| BORGWARNER INC. 3850 HAMLIN ROAD AUBURN HILLS, MI 48326 | | | | CHERRY, STEPHEN J |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2863 | |

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT PAPER

20050607

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Election/Restrictions

New claims 8-27 are directed to an invention that is independent or distinct from the invention originally claimed, and examined on the merits in a first office action.

Newly submitted claims 8-27 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Claims 1-7 and 8-27 are related as combination and subcombination, thus restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Method for determining a dimensional parameter such that the relative distances between sensors are fixed and free from adjustment during the sensors' sensing operation, as originally presented in claims 1-7, classified in class 702, subclass 158.
- II. Method and apparatus for designating desired parts based on a dimensional parameter, newly presented claims 8-27, classified in class 209, subclass 556.

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the fixing or relative positions is not claimed. The subcombination has separate utility such as determining the length of a vehicle.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-27 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 818.02(a) and 821.03.

The amendment filed on 3-28-2005 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

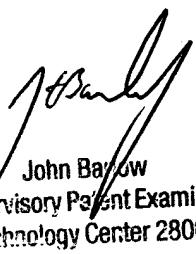
Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJC



John Barlow
Supervisory Patent Examiner
Technology Center 2800